

## **REMARKS**

Claims 1, 10-17, 22, and 23 are rejected. Claims 1, 10-17, 22, and 23 remain pending in the present application.

### **Objection to the Drawings**

The drawings were objected to for a lack of legibility. In a telephonic conversation conducted on December 21, 2007, the Examiner indicated to Applicant's representative, Robert Hough, that the objection to the drawings would be withdrawn. Accordingly, Applicant believes that corrected drawings are not necessary at this time.

### **Rejections of the Claims Under 35 U.S.C. § 103(a)**

Claims 1-9, 17, 19-21, and 23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Al-Hilali et al. (U.S. Patent No. 6,086,618, hereinafter "Al-Hilali") in view of Eden et al. (U.S. Patent Application Publication No. 2005/0171918, hereinafter "Eden"). Claims 3 and 4 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Al-Hilali in view of Eden and further in view of Applicant's Admitted Prior Art (AAPA). Claims 10, 16, and 22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Al-Hilali in view of Eden and AAPA and further in view of Morgan et al. (U.S. Patent No. 5,799,286, hereinafter "Morgan"). Applicant respectfully traverses the rejections and requests reconsideration in view of the following remarks.

To establish a *prima facie* case of obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974), MPEP 2143.03. Applicant respectfully submits that the cited references, taken individually or in combination, do not teach or suggest all the limitations recited in the claims.

For example, Applicant respectfully submits that the cited references, taken individually or in combination, do not teach or suggest a method comprising “determining a cost allocation method for each of the plurality of system resources from a plurality of available cost allocation methods, wherein each of the plurality of available cost allocation methods defines a different way of dividing one of the determined costs” in combination with the remaining features of claim 1.

In rejecting claim 1, the Final Office Action argues that, in disclosing cost equations (e.g., col. 4, lines 4-9; col. 9, lines 30-45), Al-Hilali teaches or suggests a plurality of available cost allocation methods. Applicant respectfully disagrees. At col. 10, lines 21-49, Al-Hilali discusses the construction of cost equations:

In step 104, resource usage measurements are made for each transaction in each resource used. The "cost" in terms of each of the relevant system resources is determined for each transaction. In other words, any time a particular transaction is performed, it will use or consume a certain amount of system resources and the step of making the resource usage measurements is determining those costs on a per transaction basis. Generally speaking, the behavior of users can eventually be reduced to transaction rates of the various defined transaction. One way of generating the system resource usage measurements for individual transactions will be shown hereafter in connection with the discussion of the flow chart in FIG. 5.

Once the resource usage measurements have been determined for each transaction in step 104, total cost equations may be developed for each pertinent system resource at step 106. Such cost equations will take as a component any resource usage attributed to a particular transaction. In other words, each relevant system resource will have a cost equation that takes as input the transaction rate of all relevant transactions contributing to the use of that particular system resource. All defined transactions are represented in the cost equation for a given system resource unless executing the transaction does not use the resource at all. The more transactions that are defined, the more complex the cost equation tends to be since it may have many more components.

Therefore, each of Al-Hilali's cost equations is essentially a sum of the various costs associated with the use of a system resource. As Al-Hilali further explains in col. 10, lines 56-64, the cost equations are used to determine an aggregate or total system

resource usage, not an allocation of costs. Applicant respectfully submits that a method for determining a sum of costs is far removed from a method of dividing a cost.

In col. 10, lines 21-29, Al-Hilali discloses that any cost division is performed as a part of a measurement step, not as a component of one of Al-Hilali's cost equations:

In step 104, resource usage measurements are made for each transaction in each resource used. The "cost" in terms of each of the relevant system resources is determined for each transaction. In other words, any time a particular transaction is performed, it will use or consume a certain amount of system resources **and the step of making the resource usage measurements is determining those costs on a per transaction basis.**

Furthermore, Al-Hilali discloses only one way of dividing a cost: per transaction (see, e.g., col. 10, lines 24-28; col. 12, lines 27-33). Thus, Al-Hilali does not teach or suggest determining a cost allocation method for each of the plurality of system resources from a plurality of available cost allocation methods, wherein each of the plurality of available cost allocation methods defines a different way of dividing one of the determined costs.

Therefore, Applicant respectfully submits that claim 1 is patentably distinct from the cited references. For at least the same reasons, Applicant submits that independent claims 11, 17, and 23 are patentably distinct from the cited references.

Regarding claim 5, Applicant respectfully submits that Al-Hilali does not teach or suggest a method "wherein the plurality of available cost allocation methods comprises a per usage time cost allocation method" in combination with the remaining features of claim 5. In rejecting claim 5, the Final Office Action cites col. 4, line 64 through col. 5, line 4 of Al-Hilali. At the cited location, Al-Hilali discloses measuring different types of resource usage such as CPU usage, disk access time, memory usage, etc., but not cost allocation. There is no teaching or suggestion in Al-Hilali for a per usage time cost allocation method, wherein each of the plurality of available cost allocation methods

defines a different way of dividing one of the determined costs.

Regarding claim 6, Applicant respectfully submits that Al-Hilali does not teach or suggest a method “wherein the plurality of available cost allocation methods comprises a per active days cost allocation method” in combination with the remaining features of claim 6. In rejecting claim 6, the Final Office Action cites col. 8, lines 10-19 of Al-Hilali. At the cited location, Al-Hilali discloses various aspects of computer networking. At col. 9, lines 10 – 19, Al-Hilali discloses measuring the usage of various resources but not cost allocation. There is no teaching or suggestion in Al-Hilali for a per active days cost allocation method, wherein each of the plurality of available cost allocation methods defines a different way of dividing one of the determined costs.

Regarding claim 8, Applicant respectfully submits that Al-Hilali does not teach or suggest a method “wherein the plurality of available cost allocation methods comprises a per processing time cost allocation method” in combination with the remaining features of claim 8. In rejecting claim 8, the Final Office Action cites col. 9, lines 10-19 of Al-Hilali. At the cited location, Al-Hilali discloses measuring the usage of various resources but not cost allocation. There is no teaching or suggestion in Al-Hilali for a per processing time cost allocation method, wherein each of the plurality of available cost allocation methods defines a different way of dividing one of the determined costs.

Applicant also respectfully submits that numerous others of the dependent claims recite further distinctions over the cited art. However, since the independent claims have been shown to be patentably distinct, a further discussion of the remaining dependent claims is not necessary at this time. Accordingly, withdrawal of the § 103(a) rejections is respectfully requested.

## CONCLUSION

In light of the foregoing amendments and remarks, Applicants submit that all pending claims are now in condition for allowance, and an early notice to that effect is earnestly solicited. If a phone interview would speed allowance of any pending claims, such is requested at the Examiner's convenience.

If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5760-14600.

Respectfully submitted,



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